

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ANTHONY WALCOTT,

Plaintiff,

-against-

THE CITY OF NEW YORK; POLICE
OFFICER BRIAN RAMIREZ, Tax No. 946143,
JOHN and JANE DOE 1-10.

**SECOND AMENDED
COMPLAINT**

Jury Trial Demanded

15-CV-651 (NG)(RML)

Defendants.

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NATURE OF THE ACTION

1. This is an action to recover money damages arising out of the violation of plaintiff's rights under the Constitution.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the Constitution of the United States.

3. The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331, 1343 and 1367(a).

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 (b) and (c).

5. This Court has supplemental jurisdiction over the New York State claims pursuant to 28 U.S.C. § 1337.

JURY DEMAND

6. Plaintiffs demand a trial by jury in this action.

PARTIES

7. Plaintiff Anthony Walcott (“plaintiff”, “Mr. Walcott”) is a resident of Kings County in the City and State of New York.

8. Defendant City of New York is a municipal corporation organized under the laws of the State of New York. It operates the NYPD, a department or agency of defendant City of New York responsible for the appointment, training, supervision, promotion and discipline of police officers and supervisory police officers, including the individually named defendants herein.

9. At all times relevant defendants Brian Ramirez (“Ramirez”) and John and Jane Doe 1 through 10 were police officers, detectives or supervisors employed by the NYPD. Plaintiff does not know the real names and shield numbers of defendants John and Jane Doe 1 through 10.

10. At all times relevant herein, defendants Ramirez John and Jane Doe 1 through 10 were acting as agents, servants and employees of defendant City of New York and the NYPD. Defendants Ramirez and John and Jane Doe 1 through 10 are sued in their individual and official capacities.

11. At all times relevant herein, all individual defendants were acting under color of state law.

STATEMENT OF FACTS

12. On August 16, 2014 at or about 3:00 P.M., plaintiff was lawfully within the vicinity of 913 Saratoga Avenue, Brooklyn, New York.

13. Plaintiff was waiting for his friend Lena who lives in that building.

14. A group of police officers, including Ramirez, approached plaintiff and informed him that he was trespassing.

15. Plaintiff told the defendant officers that he was waiting on a friend. He provided the officers her name and her apartment number.

16. One of the defendants grabbed plaintiff's arm, twisted behind his back and placed him in handcuffs.

17. Defendants refused to tell plaintiff why he was being arrested.

18. Plaintiff was taken to the precinct.

19. Plaintiff was held at the precinct for approximately nine hours before he was released with a Desk Appearance Ticket.

20. At no point did the officers observe plaintiff commit any crime.

21. When plaintiff appeared in court he was told that all charges against him were dismissed.

22. Plaintiff was deprived of his liberty, assaulted, battered, suffered emotional distress, mental anguish, pain, fear, anxiety, embarrassment, humiliation, damage to their reputation and loss of income.

FIRST CLAIM
42 U.S.C. § 1983

23. Plaintiff repeats and re-alleges each and every allegation as if fully set forth herein.

24. Defendants, by their conduct toward plaintiffs alleged herein, violated plaintiffs' rights guaranteed by 42 U.S.C. § 1983, the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States.

25. As a direct and proximate result of this unlawful conduct, Plaintiffs sustained the damages hereinbefore alleged.

SECOND CLAIM
UNLAWFUL STOP AND SEARCH

26. Plaintiff repeats and re-alleges each and every allegation as if fully set forth herein.

27. Defendants violated the Fourth and Fourteenth Amendments because they stopped and searched plaintiff without reasonable suspicion

28. As a direct and proximate result of this unlawful conduct, Plaintiffs sustained the damages hereinbefore alleged.

THIRD CLAIM
FALSE ARREST

29. Plaintiff repeats and re-alleges each and every allegation as if fully set forth herein.

30. Defendants violated the Fourth and Fourteenth Amendments because they arrested plaintiff without probable cause.

31. As a direct and proximate result of this unlawful conduct, Plaintiffs sustained the damages hereinbefore alleged the damages hereinbefore alleged.

FOURTH CLAIM
Failure To Intervene

32. Plaintiff repeats and re-alleges each and every allegation as if fully set forth herein.

33. Those defendants that were present but did not actively participate in the aforementioned unlawful conduct observed such conduct, had an opportunity prevent such conduct, had a duty to intervene and prevent such conduct and failed to intervene.

34. Accordingly, the defendants who failed to intervene violated the First, Fourth, Fifth And Fourteenth Amendments.

35. As a direct and proximate result of this unlawful conduct, Plaintiffs sustained the damages herein before alleged.

FIFTH CLAIM
DENIAL OF A CONSTITUTIONAL RIGHT TO A FAIR TRIAL

36. Plaintiffs repeat and reallege each and every allegation as if fully set forth herein.

37. The individual defendants created false evidence against plaintiffs.

38. The individual defendants forwarded false evidence to prosecutors in the Kings County District Attorney's office.

39. In creating false evidence against plaintiffs, and in forwarding false information to prosecutors, the individual defendants violated plaintiffs' constitutional right to a fair trial under the Due Process Clause of the Fifth and Fourteenth Amendments of the United States Constitution.

40. As a direct and proximate result of this unlawful conduct, plaintiffs sustained the damages hereinbefore alleged.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully requests judgment against defendants as follows:

- i. Compensatory damages against all defendants, jointly and severally;
- ii. Punitive damages against the individual defendants, jointly and severally;
- iii. Reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 1988; and
- iv. Such other and further relief as this Court deems just and proper.

DATED: January 22, 2016
New York, New York

/ss/
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